

REMARKS

This is a full and timely response to the non-final Office Action mailed September 1, 2005. Upon entry of the amendments in this response, claims 1 – 20 are pending. In particular, Applicants have amended claims 1 – 14 and 17 – 20. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Claims 1, 2, 8 and 9 are Patentable Over *EP 1 029 483 A*

The Office Action rejects claims 1, 2, 8 and 9 under 35 U.S.C. §102(b) as allegedly being anticipated by EP reference number 1 029 483 A (“the ‘483 reference”). For at least the reasons set forth below, the rejection should be withdrawn and the claims allowed.

As an initial matter, although the Applicants have carefully reviewed the Office Action, the Applicants have not been able to clearly identify the basis for the §102 rejection to claims 1, 2, 8 and 9.

“When a reference is complex or shows or describes inventions other than that claimed by the Applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained on each rejected claim specified.” 37 C.F.R. 1.104.

As to the §102 rejection to claims 1, 2, 8 and 9 as anticipated by the ‘483 reference, the Office Action alleges only that “*The features of the instantly rejected claims are structurally met by the reference.*” (*Emphasis added*, Office Action, pg. 4). The Office Action does not provide any explanation about the relevance of the ‘483 reference to the elements of claims 1, 2, 8 and 9. That is, the Office Action does not

describe with sufficient clarity what components of the '483 reference are considered to correspond to each of the elements of the claimed appliance.

The goal of examination is to clearly articulate any rejection early in the prosecution process so that the Applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. MPEP § 706. Thus, the MPEP requires that the Office Action properly communicate the basis for a rejection so that the Applicant may be given a fair opportunity to reply. The MPEP further requires that where a claim is refused for any reason relating to the merits thereof, the ground of rejection should be fully and clearly stated (*see* MPEP § 707.07(d)). Accordingly, Applicant respectfully submits that the Office Action has not met the requirements of the MPEP. Thus, should the Examiner disagree with the Applicants' position presented below in response to the Office Action rejection of claims 1, 2, 8 or 9, the undersigned respectfully submits that any ensuing Office Action must provide more detail and analysis. In this regard, an Office Action may not make general allegations, but must point to specific language in the text or specific teachings of the drawings as to each element of the claim to set forth a *prima facie* rejection.

Regardless, Applicants submit that claims 1, 2, 8 or 9 are allowable for at least the reason that the '483 reference does not teach each and every feature of claims 1, 2, 8 or 9.

Independent Claim 1

Independent Claim 1 recites:

1. An appliance for cooking food under pressure, the appliance comprising:
a vessel and a lid for being fitted and locked on said vessel in order to form a leaktight cooking enclosure;

at least one jaw for locking the lid relative to the vessel;
means for driving said at least one jaw between a locking position
and an unlocking position; and
***a module for fitting on and releasably securing to the lid, said
module including a device for controlling locking and unlocking of the
lid relative to the vessel.***

(*Emphasis added*). Applicants respectfully submit that independent claim 1 patently defines over the '483 reference for at least the reason that the '483 reference fails to disclose, teach, or suggest the features emphasized in bold text above.

For example, the '483 reference does not disclose, teach, or suggest "***a module for fitting on and releasably securing to the lid, said module including a device for controlling locking and unlocking of the lid relative to the vessel***" as recited in independent claim 1.

As already set forth above, the Office Action makes no allegation as to the exact elements alleged to correspond to the claimed subject matter. However, assuming *arguendo*, that the device of the '483 reference alleged to control locking and unlocking of the lid corresponds to "manoeuvring element 7," [sic] this element 7 is secured to the lid in a permanent, non-releasable manner by a central pivot pin having a head 13. (*See*, FIG. 3, col. 3, lines 11 – 16).

The central pivot pin ensures a permanent securing, fastening the cover element 6, the control mechanism 5, the plate 9, the box body 2, and the manoeuvring element 7. The removal of element 7 would apparently result in a complete dismantling of the lid assembly of the '483 reference. Said another way, the appliance disclosed by the '483 reference is not a "module" based concept as in claim 1, but rather is based on an integral

concept. (*See*, for example, Applicants' disclosure, pg. 7, lines 24 – 37). Therefore, the manouevering element 7 is not removeable in the sense of claim 1.

Applicants have reviewed the cited art of record, and none of the documents appear to disclose “a module for fitting on and releasably securing to the lid, said module including a device for controlling locking and unlocking of the lid relative to the vessel” as recited in independent claim 1. Rather, the prior art appears to be consistent with the device disclosed by the '483 reference, permanently securing the device for controlling the locking and unlocking to the lid.

In contrast, the design of the device of claim 1 allows for separating the lid from the device that controls the locking and unlocking of the lid relative to the vessel. One potential advantage of this feature is, for example, the ability to easily wash the lid frequently in a dishwasher. (*See*, for example, Applicants' disclosure, pg. 2, line 25 – pg. 3, line 7).

Accordingly, for at least these reasons, Applicants submit that the rejection to claim 1 should be withdrawn and the claim allowed. Furthermore, because independent claim 1 patently defines over the '483 reference, dependent claims 2 – 20 are allowable over the '483 reference as a matter of law for at least the reason that claims 2 – 20 contain all the features and elements of their corresponding independent claim. *See*, e.g. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

Dependent Claims 2, 8 and 9

Applicants submit that the 35 U.S.C. § 102 rejection to claims 2, 8 and 9, as anticipated by the '483 reference, is rendered moot in light of any of the arguments made above and, therefore, claims 2, 8 and 9 are allowable as a matter of law for at least the reason that claims 2, 8 and 9 contain all the features and elements of their corresponding independent claim 1. For at least this reason, Applicants request that the rejection of claims 2, 8 and 9 be withdrawn.

II. Double-Patenting Rejection

The Office Action indicates that claims 1 - 20 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over “the claims” of U.S. Patent Number 5,613,424 (the '424 patent).

Applicants submit that the double-patenting rejection should be withdrawn for at least the reason that the '424 patent discloses the same style locking and unlocking mechanism as disclosed in the '483 reference above. That is, the '424 patent does not disclose, or claim, “a module for fitting on and releasably securing to the lid, said module including a device for controlling locking and unlocking of the lid relative to the vessel” as recited in claim 1.

Accordingly, Applicants submit that claims 1 – 20, which include “a module for fitting on and releasably securing to the lid, said module including a device for controlling locking and unlocking of the lid relative to the vessel” are widely divergent

from, and non-obvious over, the claims of the '424 patent, which do not include such a feature.

Furthermore, Applicants submit that the Office Action does not make the double-patenting rejection with the required specificity required by the MPEP. In fact, the entire reasoning given in the Office Action is "The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter." (Office Action, pg. 3). The Office Action does not even identify which claims of the subject patent are alleged to correspond to claims 1 – 20 of the instant application. Clearly, this conclusory reasoning is not the type of analysis contemplated by the MPEP.

Applicants request that if the Double Patenting rejection is maintained in a future Office Action, that the rejection be made with the required specificity and clearly setting forth the basis of the rejection.

Accordingly, Applicants submit that the double-patenting rejection should be withdrawn for at least these reasons.

III. Prior Art Made of Record

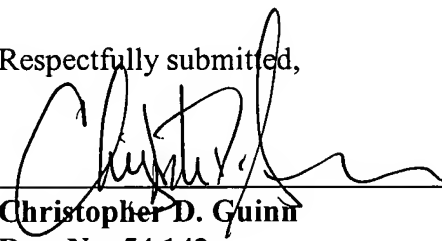
The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

The Applicant respectfully submits that all claims are now in condition for allowance, and requests that the Examiner pass this application to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this response. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,



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